



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Affordable Dwelling Unit Program

PUBLIC HEARING DATES

Planning Commission

July 21, 2004 at 8:15 p.m.

Board of Supervisors

September 13, 2004 at 4:00 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
(703) 324-1314

June 21, 2004

DP



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information call (703) 324-1334.

STAFF COMMENT

The proposed amendment makes several revisions to the Affordable Dwelling Unit (ADU) program provisions contained in the Zoning Ordinance. The proposed amendment is on the Priority 1 list of the 2004 Zoning Ordinance Work Program and is prompted by the need for clarification of certain provisions, including among other things; the desire to address the improvident removal of an ADU from the program through foreclosure; the need to provide for a fee to enlist the aid of a broker to help consumers with the special requirements of ADU resale transactions; the need to provide for allowance of certain increases in the sales price for the resale of an ADU for substantial and appropriate replacements and improvements of existing housing components; and to correct an oversight from the previous Zoning Ordinance amendment regarding mid-rise multiple family dwelling unit developments. It is noted that the Fairfax County Redevelopment and Housing Authority (FCRHA) has undertaken a comprehensive review and redesign of the First-Time Homebuyers Program, which is the program through which for-sale ADUs are administered in the Department of Housing and Community Development. Several recommended clarifications of the ADU provisions in the Zoning Ordinance have resulted from FCRHA's review.

This amendment addresses several provisions within the ADU Program, therefore, the staff comment will present the proposed changes in the order in which they appear in the Zoning Ordinance.

- **Par. 5C of Sect. 2-802, Applicability**

Under the current ADU Program, ADUs are required to be provided in any development that contains 50 or more dwelling units, is developed at a density of greater than one dwelling unit per acre and is located in an approved sewer service area. The Applicability provisions in Sect. 2-802 also set forth, among other things, that a developer may elect to opt into the ADU Program by voluntarily providing ADUs in a development that is not otherwise required to provide ADUs. The ADU Zoning Ordinance amendment adopted in 2003 included provisions that require certain elevator multiple family dwelling unit developments that are four stories or more, commonly referred to as “mid-rise” developments, to provide ADUs. Such developments have the potential for bonus density of up to 17% with the required percentage of ADUs calculated through a two-tiered approach based on the amount of structured parking. For those mid-rise developments with 50% or less of the required parking provided as structured parking, up to 6.25% of the units are required as ADUs. For those mid-rise developments with more than 50% of the required parking provided in structures, up to 5% of the units are required as ADUs. There are circumstances where certain mid-rise developments are not required to provide ADUs but choose to opt into the ADU program. For those developments, Par. 5C of Sect. 2-802 currently allows a potential bonus density of up to 17% provided that at least 6.25% of the units are ADUs. Although it was the intent of staff and the ADU Task Force to allow those mid-rise developments that opted into the ADU Program to utilize the two-tier ADU percentage based on the amount of structured parking, such provisions were inadvertently omitted in the 2003 ADU amendment. The proposed changes to Par. 5C of

Sect. 2-802 add the two-tier ADU percentage for mid-rise developments that opt into the ADU program. As such, for mid-rise developments that are opting into the ADU program, when more than 50% of the required parking in such developments is provided in parking structures, at least 5% of the units must be ADUs and when 50% or less of the required parking in such developments is provided in parking structures at least 6.25% of the units must be ADUs.

- **Par. 1 of Sect. 2-810, Administration of For Sale Affordable Dwelling Units**

The sale of ADUs is regulated by FCRHA, which has adopted rules and regulations to assist in the regulation and monitoring of the sale and resale of ADUs. Par. 2 of Sect. 2-810 gives FCRHA the exclusive right to purchase up to ? of the ADUs within a development and requires that the owner submit a Notice of Availability and ADU Sales Offering Agreement to FCRHA which provides specific information about the unit or units being offered. However, this section does not establish a timeframe for when such Notice is required to be submitted to FCRHA and this has been problematic in the past due to submission of these documents long after the unit is complete and ready for occupancy. This creates an unnecessary delay in the completion of the unit and FCRHA's right to purchase period. The proposed change to Par. 2 establishes a timeframe for when the Notice of Availability and ADU Sales Offering Agreement must be submitted to FCRHA such that the information is to be provided prior to the issuance of the first Residential Use Permit for any ADU in the development. It is believed that this timing will give FCRHA adequate time to consider whether it intends to purchase any units in the development and will not delay the delivery of the units to the ultimate purchaser.

- **Par. 1 of Sect. 2-811, Administration of Rental Affordable Dwelling Units**

Sect. 2-811 outlines the administration of rental ADUs including the existing right of FCHRA to lease rental ADUs. This paragraph is being restructured to emphasize that the FCRHA has the authority to adopt reasonable rules and regulations to administer the rental program, which may include giving priority to persons who live or work in Fairfax County. Currently, this statement can be found at the end of a lengthy paragraph and Housing and Community Development (HCD) staff believes that this statement is important enough to warrant placement at the beginning of the provision.

- **Sect. 2-812, Covenant, Price and Financing Control of Affordable Dwelling Units**

Under Sect. 2-812, the prices for subsequent resales of ADUs are controlled for a period of 15 years. Paragraphs 4 and 5 of Sect. 2-812 set forth, among other things, the process of establishing the resale price for an ADU that is sold during the 15 year control period and for the initial sale of the ADU after the expiration of the 15 year control period. Currently, the resale price can include the fair market price of structural improvements made to the unit since the date of the last sale. The proposed amendment provides for an additional allowance in

accordance with regulations established by the FCRHA for the lesser of the fair market value or the actual original cost of substantial replacements or improvements to existing housing components, including such things as appliances and flooring. Staff believes this will encourage ADU owners to make improvements to aging ADUs because they could be partially reimbursed at the time of resale for such improvements.

Par. 4 is also proposed to be amended to allow an increase in the sales price for the re-sale of an ADU to include 1½% of the sales price as a fee to be paid to a real estate broker or agent who meets the qualifications determined by FCRHA and who serves as a dual agent for both the qualified buyer and the seller in the resale of ADUs. Although the current ADU provisions allow a 1½% increase to the initial sales price of an ADU to provide for a marketing and commission allowance, there is currently no allowance for payment of a brokerage fee for the resale of an ADU. As a result, staff of HCD is frequently requested to provide guidance to sellers and prospective buyers of ADUs through the re-sale process. HCD staff are not trained as brokers, real estate agents or settlement attorneys and cannot adequately provide these necessary services to sellers and buyers. The proposed amendment to Par. 4 would enable HCD to solicit a Request for Qualifications from brokers and realtors who are interested in providing services to ADU sellers/buyers, which may include showing the home to qualified buyers, preparing sales contracts between buyers and sellers, providing technical assistance to both parties through the home inspection and other sales contract negotiations and attending the settlement for the sale. Staff believes that these allowances will not affect the affordability of the ADU.

Par. 5 also includes clarifications regarding the sharing of any proceeds that result from the sale of an ADU after the expiration of the 15 year control period. As currently provided in Par. 5, for the initial sale of an ADU after the 15 year control period, one-half of the amount of the difference between the seller's adjusted purchase price and the net sales proceeds or equity from such sale is to be contributed to the Fairfax County Housing Trust Fund to promote affordable housing in the County. The proposed changes specify that the portion of the proceeds that is to be paid to the Housing Trust Fund shall not be reduced in order for the ADU owner to satisfy any and all liens, judgments, deeds of trust, or other encumbrances on the ADU. This will preclude an ADU owner from taking equity out of the unit by way of a second mortgage or other loan or from using the ADU as collateral to secure other financing for the purpose of reducing the contribution that is to be provided to the Fairfax County Housing Trust Fund at the time of the sale outside the program. Staff believes that the contribution to the Fairfax County Housing Trust Fund should not be diminished because an owner has elected to obtain additional financing beyond that which is secured by the actual ADU value of the property.

Par. 11 includes new language to address the foreclosure sale of any ADU. Under the current provisions, in circumstances most frequently occurring, the foreclosed unit is removed from the ADU program and all covenants are released upon foreclosure. Experience has shown that

some ADU owners may be allowing their units to be foreclosed upon and sold at a market rate value, which has created proceeds for the seller greater than those that would be realized through an ADU resale in conformance with the ADU Program at the ADU's controlled price. Under the normal application of foreclosure laws, remaining proceeds after payment of the foreclosed loan and other recorded deed trust loans and liens from a foreclosure sale would go to the defaulting owner of the foreclosed ADU. Since the July 31, 1990 effective date of the ADU program, there have been 16 ADU foreclosure sales that have resulted in \$658,714 of proceeds being received by defaulting ADU owners. These ADUs were not covered by changes that were made to the ADU Program in 2002 that addressed foreclosure sales for new ADUs and ADUs resold after the effective date of that amendment. Staff recommends that the ADU Ordinance be revised to further reduce the foreclosure incentive that results in a significant monetary gain to an ADU owner and the removal of an ADU from the program for ADUs not covered by the 2002 amendment to the ADU Ordinance. To help remedy these circumstances, staff is proposing a new Par. 11 of Sect. 2-812 that provides that for any foreclosure sale of an ADU not covered by the provisions of the 2002 amendment regarding foreclosure proceeds, one-half of the difference between the net sales price of the foreclosed ADU and the defaulting owner's adjusted purchase price (CPI annual increase) must be contributed to the Fairfax County Housing Trust Fund. The proposed provisions specifically provide that any payments including liens, judgments, deeds of trust or other encumbrances on the unit shall not diminish the equity interest of the Fairfax County Housing Trust Fund. This 50/50 split of certain proceeds is consistent with the sharing of proceeds that currently exists for ADUs that reach the end of the 15 year control period and are being sold at market rate for the first time. Staff believes this might reduce attempts to circumvent the intent of the ADU program by over-financing an ADU through second mortgages or home equity loans and then allowing the unit to be foreclosed upon in hopes of making a large profit at the foreclosure sale.

Through continued implementation of the ADU Program, it has been recognized that: (1) various ADU provisions in the Zoning Ordinance are in need of clarification, (2) removal of an ADU from the ADU Program through foreclosure should more fully be addressed, (3) a broker's fee for the resale of an ADU should be provided and (4) the required number of ADUs for those mid-rise developments that opt into the ADU Program should be based on the amount of structured parking that is provided, and thus be consistent with the provisions applicable to those mid-rise developments that are required to provide ADUs. It is believed that the proposed amendment adequately addresses these issues. Therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 A.M. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of June 21, 2004 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 Amend Article 2, General Regulations, Part 8, Affordable Dwelling Unit Program, as follows:

2
3 - Amend Sect. 2-802, Applicability, by revising Par. 5C to read as follows:

- 4
5 5. Affordable dwelling units may be provided, at the developer's option, in any residential
6 development in the R-2 through R-30 and P Districts which is not required to provide
7 affordable dwelling units pursuant to the provisions of this Part. Such development shall be
8 subject to the applicable zoning district regulations for affordable dwelling unit developments
9 and shall be in accordance with the following:

- 10
11 C. For multiple family dwelling unit structures that have an elevator and are four (4) stories
12 or more in height, there may be a potential density bonus for the development consisting
13 of such structures of up to seventeen (17) percent, provided that not less than six and
14 one-quarter (6.25) percent of the total number of dwelling units are provided as
15 affordable dwelling units, subject to the provisions of this Part for multiple family dwelling
16 developments with fifty (50) percent or less of the required parking provided in parking
17 structures. For such multiple family developments with more than fifty (50) percent of the
18 required parking provided in parking structures, there may be a potential density bonus of
19 up to seventeen (17) percent, provided that not less than five (5) percent of the total
20 number of dwelling units are provided as affordable dwelling units, subject to the
21 provisions of this Part.

22
23 - Amend Sect. 2-810, Administration of For Sale Affordable Dwelling Units, by revising
24 Paragraphs 2 and 6 to read as follows:

- 25
26 2. The Fairfax County Redevelopment and Housing Authority shall have an exclusive right to
27 purchase up to one-third (1/3) of the for sale affordable dwelling units within a development for
28 a ninety (90) day period beginning on the date that a complete Notice of Availability and ADU
29 Sales Offering Agreement, submitted by the owner, is executed by the Redevelopment and
30 Housing Authority. The notice shall advise the Redevelopment and Housing Authority that a

particular affordable dwelling unit or units are or will be completed and ready for purchase. The notice shall be in the form prescribed by the Redevelopment and Housing Authority and include specific identification of the unit or units being offered; the number of bedrooms, floor area and amenities for each unit; the approved sales price for each unit and evidence of issuance of a building permit for the units. Such written notice may be sent by the owner at any time after the issuance of a building permit for the affordable dwelling unit and approval of the sales price for the unit by the County Executive, but shall occur prior to the issuance of the first Residential Use Permit for any affordable dwelling unit in the development. If the Redevelopment and Housing Authority elects to purchase a particular affordable dwelling unit, the Redevelopment and Housing Authority shall so notify the owner in writing and an all cash closing shall occur within thirty (30) days from the end of the respective ninety (90) day period, provided a Residential Use Permit has been issued for the unit prior to closing.

- 6 ~~The A~~ schedule of construction County-wide cost factors and the cost calculation formula used to determine ~~County-wide~~ sales prices ~~which were~~ shall be established initially and may be amended periodically by the County Executive, based upon a determination of all ordinary, necessary and reasonable costs required to construct the various affordable dwelling unit prototype dwellings by private industry in ~~the immediate area~~ Fairfax County, after consideration by the County Executive of written comment from the public, the Fairfax County Redevelopment and Housing Authority and the Affordable Dwelling Unit Advisory Board, and other information which may be available, such as the area's current general market and economic conditions.

- Amend Sect. 2-811, Administration of Rental Affordable Dwelling Units, by revising Par. 1 to read as follows:

1. The Fairfax County Redevelopment and Housing Authority may adopt reasonable rules and regulations to assist in the regulation and monitoring of the rental of affordable dwelling units, which may include giving a priority to persons who live or work in Fairfax County.

~~The Fairfax County~~ Redevelopment and Housing Authority or its designee shall have an exclusive right to lease up to one-third (1/3) of the rental affordable dwelling units within a single family detached or attached dwelling unit development during the control period.

For the initial rentals of units within a single family detached or attached dwelling unit development or multiple family dwelling development, the owner shall send the Redevelopment and Housing Authority a Notice of Availability and ADU Rental Offering Agreement in a form prescribed by the Redevelopment and Housing Authority, to advise that a particular affordable dwelling unit or units are or will be completed and ready for rental. Such Notice of Availability and ADU Rental Offering Agreement shall be submitted to and executed by the Redevelopment and Housing Authority prior to the issuance of the first Residential Use Permit for any dwelling within the development. The notice shall state the number of bedrooms, floor area, amenities and rent for each unit offered for rental. Such written notice may be sent by the owner at any time after the issuance of a building permit for the affordable dwelling units which are being

offered for rental. If the Redevelopment and Housing Authority elects to assume control for a particular affordable dwelling unit, the Redevelopment and Housing Authority shall so notify the owner in writing within thirty (30) days from the execution of the notice by the Redevelopment and Housing Authority.

For multiple family dwelling developments, for thirty (30) days subsequent to execution of the notice described above by the Redevelopment and Housing Authority, up to one-third (1/3) of the rental affordable dwelling units, which units shall be of proportional bedroom count to the market rate units in the multiple family development, shall be made available to households meeting owner's normal rental criteria, other than income, having state and/or local rental subsidies, and certified as eligible by the Redevelopment and Housing Authority at rents affordable to households with incomes up to fifty (50) percent of the Washington Standard Metropolitan Statistical Area median income. If the name of a qualifying tenant is not made available to the owner by the Redevelopment and Housing Authority, at the end of the thirty (30) day notice period, the owner may rent the unit(s) to households with income up to fifty (50) percent of the median income for the Washington Standard Metropolitan Statistical Area at a rent affordable to such a household.

At the owner's option, the Redevelopment and Housing Authority may lease additional rental units at the affordable dwelling unit or market rent as appropriate. ~~The Redevelopment and Housing Authority may adopt reasonable rules and regulations to assist in the regulation and monitoring of the rental of affordable dwelling units, which may include giving a priority to persons who live or work in Fairfax County.~~ The remaining two-thirds (2/3) of the for rental affordable dwelling units within a development, which units shall be of proportional bedroom count to the market rate units in the multiple family development, shall be offered to persons who meet the established income criteria.

- Amend Sect. 2-812, Covenant, Price and Financing Control of Affordable Dwelling Units, by revising Paragraphs 2C, 4, 5 and 8B(7), and adding a new Par. 11 to read as follows:

2. In developments containing affordable dwelling units offered for sale, Affordable Dwelling Unit Program covenants, which are applicable to the affordable dwelling units and which run in favor of and are in the form prescribed by the Fairfax County Redevelopment and Housing Authority, shall be recorded simultaneously with the recordation of the final subdivision plat or, in the case of a condominium, recorded simultaneously with the condominium declaration. All such initial and any subsequent or revised Affordable Dwelling Unit Program covenants thereafter recorded shall expressly provide all of the following:

- C. For the initial sale of the affordable dwelling unit after the expiration of the fifteen (15) year control period, it shall first be offered exclusively to the Fairfax County Redevelopment and Housing Authority for sixty (60) days. In all instances, one-half (1/2) of the difference between the net sales price paid by the purchaser at such sale and the owner's purchase price (as adjusted in accordance with Par. 4 below) shall be

contributed to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County.

4. Units offered for sale during the fifteen (15) year control period shall not be offered for a price greater than the original selling price plus a percentage of the unit's original selling price equal to the increase in the U. S. Department of Labor's Consumer Price-Urban Area Index or such other index selected by the County Executive following consideration of the recommendation by the Affordable Dwelling Unit Advisory Board, plus the lesser of the current fair market value of or the actual original cost of certain improvements as determined by the Fairfax County Redevelopment and Housing Authority in accordance with its regulations to be (a) substantial and appropriate replacements or improvements of existing housing components and/or (b) structural improvements made to the unit between the date of original sale and the date of resale, plus an allowance for payment of closing costs on behalf of the subsequent purchaser which shall be paid by the seller. Those features deemed to be substantial and appropriate replacements or improvements of housing components and structural improvements are as set forth by the Fairfax County Redevelopment and Housing Authority. No increase in sales price shall be allowed for the payment of brokerage fees associated with the sale of the unit, except ~~for those units where there was no marketing and commission allowance provided for in the initial sale. In such cases the sales price may also include a marketing and commission allowance of one and one-half (1 1/2) percent of the sales price for the affordable dwelling unit.~~ that an increase of one and one-half (1 1/2) percent of the sales price shall be allowed as a fee to be paid to a real estate broker or agent licensed to conduct residential real estate transactions in the Commonwealth of Virginia who meets the qualifications determined by the Redevelopment and Housing Authority and who serves as a dual agent for both the qualified buyer and the seller in the resale of the affordable dwelling unit in accordance with sales procedures approved by the Housing Authority. The one and one-half (1 1/2) percent fee shall be paid to such real estate broker or agent by the seller at the time of settlement of the resale of the affordable dwelling unit as part of the disbursement of settlement proceeds.

5. For the initial sale of an affordable dwelling unit after the expiration of the fifteen (15) year control period, the Fairfax County Redevelopment and Housing Authority shall be offered the exclusive right to purchase the unit. The owner of each such unit shall provide the Redevelopment and Housing Authority with written notification sent by registered or certified mail that the unit is for sale. If the Redevelopment and Housing Authority elects to purchase such unit, the Authority shall so notify the owner in writing within thirty (30) days of receipt of the written notification from the owner and the all cash closing shall occur within sixty (60) days thereafter.

In all instances, whether or not the Redevelopment and Housing Authority elects to purchase such unit, one-half (1/2) of the amount of the difference between the net sales price paid by the purchaser at such sale and the owner's purchase price plus a percentage of the unit's selling price equal to the increase in the U.S. Department of Labor's Consumer Price-Urban Area Index or such other index selected by the County Executive following consideration of the

recommendation by the Affordable Dwelling Unit Advisory Board, plus the lesser of the current fair market value of or the actual original cost of certain improvements as determined by the Redevelopment and Housing Authority in accordance with its regulations to be (a) substantial and appropriate replacements or improvements of existing housing components and/or (b) structural improvements made to the unit between the date of the owner's purchase and the date of resale shall be contributed to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County as part of the disbursement of settlements proceeds. Such equity interest of the Fairfax County Housing Trust Fund shall apply to each affordable dwelling unit. Notice of such equity interest of the Fairfax County Housing Trust Fund may be evidenced by a document recorded among the land records of Fairfax County, Virginia encumbering any affordable dwelling unit. Net sales price shall exclude closing costs such as title charges, transfer charges, recording charges, commission fees, points and similar charges related to the closing of the sale of the property paid by the seller, but shall be inclusive of any allowances for items related to the reconditioning and refurbishing of the dwelling unit, such as, but not limited to painting, carpet, appliance and similar allowances. All amounts necessary to pay and satisfy any and all liens, judgments, deeds of trust, or other encumbrances on the unit, other than the equity interest of the Fairfax County Housing Trust Fund, shall be paid by the seller out of proceeds of the seller from such sale, as determined in accordance with this paragraph, or shall be paid otherwise by the seller. In no event shall any such amounts required to be paid by the seller reduce the amount, as determined in accordance with this paragraph, which is to be contributed to the Fairfax County Housing Trust Fund pursuant to this paragraph.

8. The financing of affordable dwelling units provided pursuant to this Part shall comply with the following:

B. For any individual affordable dwelling unit initially conveyed on or after July 2, 2002 and the resale of any individual affordable dwelling unit conveyed on or after July 2, 2002, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded prior to July 2, 2002, and for initial and revised covenants recorded on or after July 2, 2002:

(7) in the event that neither the Fairfax County Redevelopment and Housing Authority nor the nonprofit agency designated by the County Executive exercises the Right to Acquire and the individual for sale affordable dwelling unit is sold for an amount greater than the Outstanding First Trust Debt, one-half (1/2) of the amount in excess of the Outstanding First Trust Debt shall be paid to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County as part of the disbursement of settlement proceeds.

11. In the event of a foreclosure sale of any affordable dwelling unit after [effective date of this amendment] the following shares of the proceeds of such foreclosure sale shall be paid to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County:

1
2 A. For any individual affordable dwelling unit initially conveyed on or after July 2, 2002 and
3 any individual affordable dwelling unit resold and conveyed on or after July 2, 2002,
4 regardless of whether the covenants applicable to any such initial conveyance or resale
5 conveyance were recorded prior to July 2, 2002, and for initial and revised covenants
6 recorded on or after July 2, 2002, in the event that the individual for sale affordable
7 dwelling unit is sold at the foreclosure sale for an amount greater than the Outstanding
8 First Trust Debt, as such term is defined in Par. 8B(6) above, one-half (1/2) of the
9 amount in excess of the Outstanding First Trust Debt shall be paid to the Fairfax County
10 Housing Trust Fund as part of the disbursement of settlement proceeds.

11
12 B. For all other individual affordable dwelling units, in all instances, one-half (1/2) of the
13 amount of the difference between the net sales price paid by the purchaser at such sale
14 and the foreclosed owner's purchase price plus a percentage of the unit's selling price
15 equal to the increase in the U.S. Department of Labor's Consumer Price-Urban Area
16 Index or such other index selected by the County Executive following consideration of
17 the recommendation by the Affordable Dwelling Unit Advisory Board, plus the lesser of
18 the current fair market value or the actual original cost of certain improvements as
19 determined by the Redevelopment and Housing Authority in accordance with its
20 regulations to be (1) substantial and appropriate replacements or improvements of
21 existing housing components and/or (2) structural improvements made to the unit
22 between the date of the foreclosed owner's purchase and the date of resale shall be
23 contributed to the Fairfax County Housing Trust Fund as part of the disbursement of
24 settlement proceeds. Net sales price shall exclude closing costs such as title charges,
25 transfer charges, recording charges, commission fees, points and similar charges related
26 to the closing of the sale of the property paid by the seller. All amounts necessary to pay
27 and satisfy any and all liens, judgments, deeds of trust, or other encumbrances on the unit,
28 other than the equity interest of the Fairfax County Housing Trust Fund, shall be paid by
29 the seller out of proceeds of the seller from such sale, as determined in accordance with
30 this paragraph, or shall be otherwise paid by the seller. In no event shall any such
31 amounts required to be paid by the seller reduce the amount, as determined in
32 accordance with this paragraph, which is to be contributed to the Fairfax County Housing
33 Trust Fund pursuant to this paragraph.